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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,171	05/31/2001	Mary Lucille DeLucia	KCC-15,135	9932

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EXAMINER

ROSSI, JESSICA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/871,171

Applicant(s)

DELUCIA ET AL.

Examiner

Jessica L. Rossi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/6/04, RCE.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,11-17,19,20,23-31 and 42-45 is/are pending in the application.
- 4a) Of the above claim(s) 23-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-6,11-17,19-20,42-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 5/6/04 for a RCE under 37 CFR 1.114 based on parent Application No. 09/871,171 is acceptable and a RCE has been established. An action on the RCE follows.

Response to Amendment

2. This action is in response to the amendment dated 2/6/04. Claims 23-31 were non-elected by Applicant in response to the election by original presentation set forth in the final office action dated 12/3/03. Claims 42-45 were added. Claims 1-2, 4-6, 11-17, 19-20, 23-31, and 42-45 are pending.
3. Support for the limitations added to claim 1 can be found on p. 16, lines 4-11, p. 17, lines 10-12, p. 6, lines 10-15, and p. 24, lines 13-16.
4. Support for the limitations set forth in new claims 42-43 can be found in Figures 3-4.
5. The rejection of claims 1-2, 4-6, 12, and 14-16 under 35 U.S.C. 102(b) as being anticipated by Breveteam (of record), as set forth in paragraph 6 of the final office action, dated 12/3/03, has been withdrawn in light of the present amendment to claim 1. Note that the particular embodiment relied upon in the reference teaches a first film layer and a second film layer and therefore does not teach a fibrous nonwoven layer.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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7. Claims 44-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification does not have support for the bulk of the composite being increased by at least 400% nor does it have support for the bulk being increased by about 100% to about 800%.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-2, 4-6, 11-17, 19-20, and 42-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, it is unclear what Applicant means by "differentially shrinking at least one of the first layer and the second layer". Differential shrinking means that the layers both shrink but to different extents; therefore, how can the shrinking be differential if only one of the layers shrinks (note "at least one of the first layer and the second layer" does not exclude such a scenario)? Applicant is asked to clarify. It is suggested to amend the claim to state -- differentially shrinking the first and second layers--.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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11. Claims 1-2, 4-6, 11-15, 17, 19-20, and 42-45 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Breveteam (GB 1293456; if record) in view of Kasai et al. (US 6503431; of record), as set forth in paragraph 9 of the final office action.

With respect to claim 1, the skilled artisan would have readily appreciated that the paper layer of Breveteam is a fibrous non-woven web since paper is made from fibers (i.e. pulp fibers). Breveteam also teaches differentially shrinking the fibrous and film layers to increase a thickness (= bulk) of the composite (p. 3, lines 99-100; p. 1, lines 39-49; p. 3, lines 40-46).

Regarding claims 42-45, the amount of increase in the bulk of the composite would have been within purview of the skilled artisan.

Response to Arguments

12. Applicant's arguments filed 2/6/04 have been fully considered but they are not persuasive.

13. On page 16 of the arguments, Applicant argues that Breveteam does not teach differential shrinking of at least one of the fibrous non-woven web and the film to increase a bulk of the composite material.

As set forth in paragraph 11 above, the reference teaches such a limitation (p. 1, lines 39-46; p. 3, lines 40-46 and 99-102).

14. On page 16 of the arguments, Applicant argues that as a result of the differential shrinkage of the present invention, the fibers of the first layer are oriented in a z-direction to increase the composite material bulk.

This argument is not commensurate with the scope of the claimed invention.

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15. On page 16 of the arguments, Applicant argues that the paper layer of Breveteam will not shrink and therefore the paper layer fibers will not be oriented in the z-direction.

First, Applicant's assertion that the paper fibers will not shrink is mere speculation. In fact, this assertion is incorrect since the skilled artisan would have appreciated that paper fibers can shrink when heated and especially since Breveteam specifically states that the further web material can be a paper layer, having **lesser** or zero tendency to shrink (p. 3, lines 87-88).

Second, the fibers being oriented in the z-direction is not commensurate with the scope of the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **571-272-1223**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine R. Copenheaver can be reached on 571-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jessica L. Rossi
Patent Examiner
Art Unit 1733